

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SANTIAGO IBARRA TORRES,	)	
	)	
Petitioner,	)	
	)	
v.	)	1:05CV661
	)	
RANDALL LEE, Warden, Caledonia	)	
Correctional Institution,	)	
	)	
Respondent.	)	

ORDER

This matter is before the Court on a Recommendation of the United States Magistrate Judge [Document #16]. In accordance with 28 U.S.C. § 636(b), the Recommendation was filed and notice was served on the parties in this action and a copy was given to the Court. Within the time limitation set forth in the statute, Petitioner objected to the Recommendation.

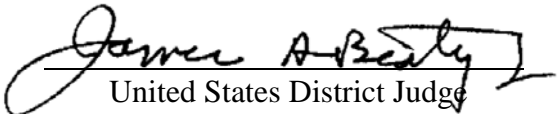
The Court has appropriately reviewed the portions of the Magistrate Judge's Report to which objection was made and has made a *de novo* determination which is in accord with the Magistrate Judge's Report. Therefore, the Court hereby adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that Respondent's Motion to Dismiss on statute of limitations grounds [Document #5] is GRANTED, Petitioner's Writ of Habeas Corpus [Document #2] is DENIED, and this action is hereby DISMISSED WITH PREJUDICE. Having dismissed this matter solely on procedural grounds, and further finding no substantial issue

concerning the denial of a constitutional right, IT IS FURTHER ORDERED that a certificate of appealability is not issued.

FINALLY, IT IS ORDERED that Respondent's Motion for Summary Judgment [Document #6], Petitioner's Motion for an Evidentiary Hearing [Document #18], Petitioner's Motion for Appointment of Counsel [Document #19], Petitioner's Motion for Discovery [Document #11], and Petitioner's Motion to Stay the Proceeding [Document #15] are DENIED AS MOOT.

This, the 11<sup>th</sup> day of July, 2006.

  
United States District Judge